

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

x

UNITED STATES OF AMERICA,

-against-

S2 14 CR 810-01 (CM)

MOSHE MIRILASHVILI,

Defendants.

x

DECISION ON POST-TRIAL MOTION FOR A JUDGMENT OF ACQUITTAL

McMahon, J.:

Moses Mirilashvili, M.D. was charged in a superseding indictment with conspiracy to distribute oxycodone (Count One) and two substantive counts of distribution of oxycodone (Counts Two and Three) in violation of 21 U.S.C. §§ 846, 841(a) (l) and (b) (l) (C).¹

On March 17, 2016, defendant was convicted by a jury on all three counts.

On April 18, 2016, the defendant filed a renewed motion for a judgment of acquittal pursuant to Fed. R. Crim. P. 29. Defendant argues as to each count, but principally in regard to Count Three, that the Government's evidence relied on "speculative inferences and extrapolations that fell well woefully short of satisfying its burden." (ECF Docket #281, Defendant's Br. at 2). This is essentially the same argument defendant made in a motion at the close of the Government's case, which the Court rejected, finding that:

Count Two Two is about the prescription that was written for Abraham Correa, a representative patient, in quotes. Count Three is about a representative day. . . . The motion is denied. There is ample evidence to take all three counts to the jury.

¹ The Court presumes the reader's familiarity with the trial record.

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(*Id.* at 1117.) The defendant renewed the motion at the close of the defendant's case, and the Court denied that motion as well. (*Id.* at 1286-87). There is nothing in defendant's latest motion that would move the Court to retreat from its earlier rulings that the Government presented sufficient evidence at trial to meet its burden on each of the three counts charged.

Accordingly, for the reasons previously articulated by the Court, and those set forth in the Government's opposition papers (ECF Docket #290), defendant's motion for a judgment of acquittal is denied.

Defendant will be sentenced July 20, 2016, at 2:00 p.m., as previously scheduled.

This constitutes the decision and order of the Court.

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May 9, 2016



Colleen McMahon, U.S.D.J.

By: ECF to All Parties